

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-49507-2021
Date of decision:01.12.2021

Abhishek

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Yashveer Kharb, Advocate
for the petitioner.

Ms. Anamika Sood, Addl. AG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.499 dated 05.08.2021 lodged under Sections 363, 366-A IPC (charges framed under Section 363, 366, 376(3) and 376(2)(n) IPC and Section 6 of POCSO Act, 2012) registered at Police Station Chandni Bagh District Panipat.

At the outset, learned counsel for the petitioner has invited the attention of this Court to the statement of the victim, aged 15 years, recorded under Section 164 Cr.PC (Annexure P-3) and submitted that she did not level any allegation against the petitioner or anyone else qua any wrong doing. He further submits that the false implication of the petitioner in the FIR in question finds further credence from the fact that while stepping into the witness box, both the material witnesses i.e. the complainant as well as the victim failed to support the case of the prosecution, as a result of which, they both were declared hostile. It has also been submitted that as the petitioner has been in custody since 13.08.2021 and the material witnesses already stand examined, as already

observed hereinabove, hence, his further incarceration would not serve any useful purpose.

Per contra, learned State counsel while opposing the prayer made by counsel opposite on instructions from ASI Rohtash has not been able to controvert the submissions made by the learned counsel for the petitioner with respect to the contents of the statement of the victim recorded under Section 164 Cr.PC. She has also fairly admitted that both the complainant and the victim, who were material witnesses, did not support the case of the prosecution during trial and were thus, declared hostile. She has further submitted that 22 more prosecution witnesses remain to be examined.

Heard learned counsel and perused the material available on record.

In the wake of submissions made by learned counsel as well as in the facts and circumstances of the case as enumerated hereinabove, the present petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

01.12.2021
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No